



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C., 20460

MAR 14 2019

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Matt Henderson, Environmental Manager
Hilcorp Energy Company
1111 Travis Street
Houston, TX 77002

Re: Finding of Violation under the Clean Air Act -- Hilcorp Energy Company's San Jacinto 6E Well, San Juan County, New Mexico

Dear Mr. Henderson:

The U.S. Environmental Protection Agency (EPA) is issuing the enclosed Finding of Violation (FOV) to Hilcorp Energy Company (Hilcorp). The EPA is issuing this FOV under Section 113(a)(3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(3). On the basis of the facts set out in the FOV, the EPA has determined that Hilcorp violated of the requirements and prohibitions of the Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced after September 18, 2015, 40 C.F.R. Part 60, Subpart OOOOa.

Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), gives the EPA several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, or bringing a judicial criminal action.

We are offering Hilcorp the opportunity to request a conference with the EPA to discuss the violations identified in this FOV. A conference should be requested within ten (10) business days following receipt of this FOV. This conference will provide Hilcorp with an opportunity to present information on the identified violations, efforts it has taken to comply, and the steps it will take to prevent future violations.

The EPA contact in this matter is Daniel Hoyt, and he may be reached at (202) 564-7898, or hoyt.daniel@epa.gov to request a conference. You may have your counsel contact Robert Klepp at (202) 564-5805, or klepp.robert@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip A. Brooks", written over the word "Sincerely,".

Phillip A. Brooks, Director
Air Enforcement Division
Office of Civil Enforcement

cc: Shannon Duran, Compliance & Enforcement Section Chief, New Mexico Environment
Department
Steve Thompson, EPA Region 6

Enclosure: Finding of Violation (FOV)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

**Hilcorp Energy Company
Houston, TX**

Respondent

Proceedings Pursuant to
the Clean Air Act
42 U.S.C. §§ 7401 *et seq.*

FINDING OF VIOLATION

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is providing this Finding of Violation (FOV) under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3) (the Act or CAA), to inform Hilcorp Energy Company (Hilcorp or Respondent) of violations set forth in detail in the paragraphs that follow. The EPA alleges that Hilcorp violated the Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced after September 18, 2015, 40 C.F.R. Part 60, Subpart OOOOa, at the San Jacinto 6E well affected facility identified below.

The EPA is providing Hilcorp with the opportunity to request a conference with us to discuss the violation alleged in this FOV. This conference will provide Hilcorp with an opportunity to present information on the identified violation, efforts it has undertaken to comply, and the steps it will take to prevent future violations.

I. Hilcorp Energy Company

1. Respondent is an exploration and production company registered as a corporation in the State of New Mexico. Respondent's business includes the extraction and production of natural gas, and hydrocarbon liquids (e.g., natural gas condensate and oil) and completion operations at well affected facilities located in the San Juan Basin, in San Juan County, NM.

2. Respondent's headquarters is located at 1111 Travis Street, Houston, TX 77002.
3. Respondent is the owner and operator of the San Jacinto 6E well affected facility, a natural gas production facility (Facility) relevant to this FOV identified below.

Facility Name.	Facility ID# ¹ .	Physical Location or Address.
San Jacinto 6E Well	30-045-24057	36.71584, -107.90070 San Juan County, NM

¹Facility Identification Number (ID#) is the United States Well Number.

4. On October 29, 2018, the EPA issued a CAA Section 114 information request to Hilcorp. Hilcorp provided the EPA with responses to the request on January 15, 2019. The EPA's findings based on review of the information request responses are provided in Section V (Factual Background) and Section VI (Violations).

II. Clean Air Act

5. The CAA is designed to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. CAA Section 101(b)(1), 42 U.S.C. § 7401(b)(1).
6. In 1979, the EPA published a list of source categories which the EPA determined caused or contributed significantly to air pollution and which may reasonably be anticipated to endanger public health or welfare. See CAA Section 111(b), 42 U.S.C. § 7411(b)(1)(A); 44 FR 49222 (August 21, 1979) (Priority List and Additions to List of Categories of Stationary Sources). The EPA then issued "standards of performance" for new sources in such source categories. CAA Section 111(b)(1)(B), 42 U.S.C. § 7411(b)(1)(B). The Priority List included "crude oil and natural gas production." In June 1985, the EPA promulgated new source performance standards (NSPS) for the crude oil and natural gas production source category that addressed emissions of volatile organic compounds (VOCs) from leaking components at onshore natural gas processing plants. 50 FR 26122 (June 24, 1985); 40 C.F.R. Part 60, Subpart KKK. In October 1985, the EPA promulgated additional NSPS regulations for the crude oil and natural gas production source category that regulates sulfur dioxide (SO₂) emissions from onshore natural gas processing plants. 50 FR 40158 (October 1, 1985); 40 C.F.R. Part 60, Subpart LLL.
7. In 2012, pursuant to its authority under CAA Section 111(b)(1)(B) to review and, if appropriate, revise NSPS regulations, the EPA published the final rule, "Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution," found at 40 C.F.R. Part 60, Subpart OOOO. The rule updated the SO₂ standards for sweetening units and VOC standards for equipment leaks at onshore natural gas processing plants. In addition, the rule established VOC standards for several oil and natural gas-related operations that were not covered under by 40 C.F.R. Part 60, Subparts KKK and LLL, including gas well completions, centrifugal and reciprocating

compressors, natural gas- operated pneumatic controllers and storage vessels. 40 C.F.R. §§ 60.5360-5430.

8. In 2013 and 2014, the EPA made amendments to the 2012 NSPS regulations with respect to standards for gas well completions and other changes, which are found at 40 C.F.R. Part 60, Subpart OOOOa.¹
9. Affected facilities that commence construction, modification or reconstruction after September 18, 2015 are subject to standards under 40 C.F.R. Part 60, Subpart OOOOa. 40 C.F.R. § 60.5360a. This subpart will be referred to hereinafter as “NSPS Subpart OOOOa”.
10. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Artificial Lift Equipment” as mechanical pumps including, but not limited to, rod pumps and electric submersible pumps used to flowback fluids from a well.
11. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5430a, defines “Low Pressure Well” as a well that satisfies at least one of the following conditions:
 - 1) the static pressure at the wellhead following fracturing but prior to the onset of flowback is less than the flow line pressure at the sales meter;
 - 2) the pressure of flowback fluid immediately before it enters the flow line, as determined under §60.5432a, is less than the flow line pressure at the sales meter; or,
 - 3) flowback of the fracture fluids will not occur without the use of Artificial Lift Equipment.
12. The additional relevant definitions at 40 C.F.R. § 60.5430a and terminology from NSPS Subpart OOOOa are incorporated herein.
13. NSPS Subpart OOOOa, at 40 C.F.R. § 60.5375a(a)(1)(ii) requires, during the separation flowback stage, for recovered gas from well affected facilities to be routed from the separator into a gas flow line or collection system, re-injected into the well or another well, or used as an onsite fuel source or for another useful purpose that a purchased fuel or raw material would serve.
14. NSPS Subpart OOOOa, at 40 C.F.R. §60.5375a(a)(3) provides if it is infeasible to route the recovered gas as required in 40 C.F.R. § 60.5375a(a)(1)(ii), then recovered gas must be captured and directed to a completion combustion device, except in conditions that may result in fire, hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. Completion combustion devices must be equipped with a reliable continuous pilot flame.

¹ On June 3, 2016, the EPA published a final rule that established NSPS regulations for greenhouse gas and VOC emissions from the oil and natural gas sector. 81 FR 35824 (June 3, 2016). Following promulgation of the 2016 final rule, the EPA granted reconsideration of the fugitive emissions requirements at well sites and compressor stations, well-site pneumatic pump standards and the requirements for certification of closed vent systems by a professional engineer. 82 FR 25730 (June 5, 2017); see also 83 FR 52056 (October 15, 2018)(proposing amendments and clarifications to address these issues and technical clarification issues).

15. NSPS Subpart OOOOa, at 40 C.F.R. §§ 60.5375a(a) and (f) provide an exception from the requirements of 40 C.F.R. § 60.5375a(a)(1)(ii), for well affected facilities that meet one of the three conditions described in the Low Pressure Well definition.

V. Factual Background

16. Respondent owned and/or operated the San Jacinto 6E well in February of 2018 (and continues to own and/or operate the San Jacinto 6E well), which is a well affected facility that was subject to the requirements of 40 C.F.R. § 60.5375a in February of 2018.
17. On February 19, 2018, at 15:00 (local time), following hydraulic fracturing or refracturing, flowback from the San Jacinto 6E well began. During the 74 hours of flowback, gas present in the initial flowback was vented directly to the atmosphere for 46 hours, and gas recovered from a separator during separation flowback was combusted in a completion combustion device for 28 hours. No gas recovered from the separator was routed from the separator into a gas flow line or collection system and then re-injected into the well or another well, or used as an onsite fuel source or for another useful purpose that a purchased fuel or raw material would serve during the separation flowback stage.
17. Respondent did not provide information in responses to the CAA 114 information request to show, as provided in 40 C.F.R. § 60.5375a(a)(3), that it was technically infeasible during the separation flowback stage, for recovered gas from San Jacinto Well 6E to be routed from the separator into a gas flow line or collection system, re-injected into the well or another well, or used as an onsite fuel source or for another useful purpose that a purchased fuel or raw material would serve.
18. Respondent claims in the responses to the CAA 114 information request that the San Jacinto 6E well was excepted from the requirements of §60.5375a(a)(1) because Artificial Lift Equipment was used, thus satisfying condition (3) of the Low Pressure Well definition.
19. Respondent claims in the responses to the CAA 114 information request that the San Jacinto 6E well is a Low Pressure Well according to the definition at 40 C.F.R. § 60.5430a because mechanical equipment was used to pump nitrogen into the reservoir, to temporarily energize the well and act as a gas-lift/artificial lift technique during various phases of fracture stimulation, and because the well may have needed to be artificially lifted by injecting compressed air from the surface to help lift the liquids out of the well during post-frac wellbore cleanouts.
20. On February 23, 2018, at 14:30 (local time) the San Jacinto 6E well started production, or was shut in and the flowback equipment was permanently disconnected.

VI. Violations

21. On or around February 21, 2018, during the separation flowback stage at the San Jacinto 6E well, Respondent directed recovered gas to a completion combustion device for 28 hours, and violated 40 C.F.R. § 60.5375a(a)(1)(ii) by failing to rout the recovered gas from the separator into a gas flow line or collection system, and then re-inject the recovered gas into the well or another well, or use the recovered gas as an onsite fuel source or for another useful purpose that a purchased fuel or raw material would serve.
22. Respondent did not provide any information in the responses to the CAA 114 information request that indicates that the San Jacinto 6E well meets one of the three conditions identified in the Low Pressure Well definition.
 - a. Respondent's use of mechanical equipment to pump nitrogen or air into the reservoir or well is not considered to be use of Artificial Lift Equipment, because Respondent's mechanical equipment is not a mechanical pump used to flowback fluid from the well, and it is not, nor similar to, rod pumps or electric submersible pumps;
 - b. Respondents did not provide information that demonstrated that the static pressure at the wellhead following fracturing but prior to the onset of flowback is less than the flow line pressure at the sales meter; and
 - c. Respondents did not provide information that demonstrated that the pressure of flowback fluid immediately before it enters the flow line, as determined under §60.5432a, is less than the flow line pressure at the sales meter.
23. For the foregoing reasons the Respondents were obligated to comply with the requirements of 40 C.F.R. § 60.5375a(a)(1)(ii) as the San Jacinto 6E well did not qualify as a Low Pressure Well excepted from the requirements of 40 C.F.R. § 60.5375a(a)(1)(ii).


VII. Enforcement Provisions

24. The EPA's investigation into this matter is continuing. The above information represents specific violations that the EPA believes, at this point, are sufficiently supported by evidence to warrant the allegations in this FOV. The EPA may find additional violations as the investigation continues.
25. Section 113(a)(3) of the Act, 42 U.S.C § 7413(a)(3), provides the Administrator with several enforcement options to resolve these violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.
26. Any "person," including individual, corporation, partnership, see CAA Section 302(e), 42 U.S.C. § 7602(e), who violates any requirement or prohibition in CAA Subchapter I, Part A, including NSPS regulations promulgated thereunder, is subject, among other things, to

a civil penalty of up to \$99,681 per day of violation for violations that occurred after November 2, 2015, where penalties are assessed after February 6, 2019. CAA Section 113(b) of the Act, 42 U.S.C. § 7413(b), as modified by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701; see 40 C.F.R. § 19.4, and 84 Fed. Reg. 2056, 2059 (February 6, 2019), and 84 Fed. Reg. 5955 (February 25, 2019).

27. The EPA may seek, and a United States district court may order, equitable remedies to further address these alleged violations. CAA Section 113(b), 42 U.S.C. § 7413(b).

3/14/2019
Date


Phillip A. Brooks, Director
Air Enforcement Division
Office of Civil Enforcement